**IN THE HIGH COURT OF JUDIATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.9157 OF 2003**

Malkawabai Govind Sonkavade
since deceased by his heirs
1A. Hiralal Govind Sonkavade .. Petitioner
Vs.
Gaurabai Baburao Aljapurkar & Ors. .. Respondents.

Mr.V.B.Naik for the petitioner.
Mr.G.S.Godbole for the respondents.

**CORAM : D.B.BHOSALE, J.**

**DATED : 17TH FEBRUARY, 2005**

P.C.:

. Heard Mr.Naik, learned counsel for the petitioner and Mr.Godbole, learned counsel for the respondents.

2. This petition is directed against the order dated 23.9.2003 by which the application filed by the petitioner seeking condonation of delay in filing the appeal has been rejected. I heard Mr.Naik, learned counsel for the petitioner for sometime. After having argued this matter for sometime Mr.Godbole, learned counsel for the respondents fairly stated that the respondents have no objection for condoning the delay in filing the

appeal subject to payment of cost of Rs.20,000/-. Mr.Naik, learned counsel for the petitioner states that though the petitioner has already stated in the petition that he was prepared to pay cost of Rs.10,000/- for condoning the delay, he is now prepared to pay cost of Rs.20,000/- to respondent no.1 - plaintiff. The learned counsel for the parties have agreed that the reasons need not be recorded for disposing of this writ petition. Considering the submissions advanced by the learned counsel appearing for the parties and keeping in view the peculiar facts and circumstances of the case, in my opinion, the following order shall meet the ends of justice:

(a) The impugned order dated 23.9.2003 is set aside.

(b) The delay in filing the appeal stands condoned subject to payment of cost of Rs.20,000/- by the petitioner to respondent no.1 - plaintiff within four weeks from today. The petitioner to produce a copy of the receipt of payment of cost before the Court within one week from the date of payment.

(c) The Appellate Court shall register the appeal on production of the receipt of the payment of cost and dispose of the same on merits in accordance with law as expeditiously as possible and preferrably within a period of four months therefrom. The petitioner undertakes to file paper book before the Appellate Court within four weeks from today.

(d) Pending hearing and final disposal of the appeal an execution of the decree dated 18.8.1993 passed in Regular Civil Suit No.705 of 1975 shall remain stayed.

(e) It is open for the petitioner to delete respondent nos.2 and 3 from the appeal since decree passed against them has already attained finality.

. The writ petition is, accordingly, diposed of.

**(D.B.Bhosale, J.)**